

**STATE OF COLORADO
TOWN OF CRAWFORD, COLORADO**

ORDINANCE NO. 2-2005

AN ORDINANCE OF THE TOWN OF CRAWFORD, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE TOWN OF CRAWFORD; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

Be It Ordained by the Board of Trustees of the Town of Crawford, Colorado:

Section 1. The Code entitled the *Crawford Municipal Code*, published by Colorado Code Publishing Company, consisting of Chapters 1 through 18, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance, which are inconsistent with the provisions of the Crawford Municipal Code, to the extent of such inconsistency, are hereby repealed. The repeal established in this Section 2 shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 3. The following code is hereby adopted by reference and incorporated in the Crawford Municipal Code. One (1) copy of each is on file in the Town Clerk's office:

(1) The *Model Traffic Code for Colorado Municipalities*, 2003 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10 et seq.;

Section 4. The penalties provided by the Municipal Code of the Town of CRAWFORD are hereby adopted as follows:

(1) Sec. 1-4-20. General penalty for violation. (General Provisions — General Penalty)

Any person who shall violate or fail to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Each day such violation continues shall be considered a separate offense.

(2) Sec. 1-4-30. Application of penalties to juveniles. (General Provisions, General Penalty)

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo

contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

(3) Sec. 5-2-60. Remittance schedule. (Franchises and Communication Systems — Electric Franchise)

The Company shall remit franchise fee revenues to the Town in monthly installments not more than thirty (30) days following the close of each month. All payments shall be made to the Town. In the event that either the Town or the Company discovers that there has been an error in the calculation of the franchise fee payment to the Town, the error shall be corrected in the next monthly payment; except that, in the event an error by the Company results in an overpayment of the franchise fee to the Town and said overpayment is in excess of five thousand dollars (\$5,000.00), credit for the overpayment shall be spread over the same period the error was undiscovered. If the overpayment is less than five thousand dollars (\$5,000.00), credit shall be taken against the next payment. In no event shall the Town be required to refund any overpayment made as a result of a Company error which occurred more than three (3) years prior to the discovery of the Company error. Underpayments shall be subject to one and one half percent (1½%) interest per month until paid in full.

(4) Sec. 5-2-420. Breach of franchise. (Franchises and Communication Systems — Electric Franchise)

(a) If the Company fails to perform any of the terms and conditions of this franchise and such failure is within the Company's control, the Town may require the Company to show cause, at a hearing before the Board of Trustees, the reasons its rights and privileges under this franchise should not be forfeited or other penalties imposed as provided by this franchise or by law. No such hearing shall be held unless the Company has first been given notice of its failure and reasonable time, not to exceed ninety (90) days, in which to remedy the failure. If the Company does not remedy the failure, the Board of Trustees may determine, at such a hearing, whether such failure to perform and the Company's failure to remedy the same occurred, and if so, whether such failure to perform is substantial. The Board of Trustees may impose one (1) or more of the following remedies or penalties for a substantial failure to perform:

(1) A civil penalty of five hundred dollars (\$500.00) for each day or portion thereof in which the Board of Trustees has determined that the failure was committed or continued. The Company understands and agrees that such liquidated damages are intended to compensate the Town for the additional efforts of the Town in administering and enforcing the franchise, for inconvenience to Town operations and to the residents and loss of confidence in government and morale of the Town and its residents when franchise obligations are not met. Such damages are uncertain in amount and difficult to measure and prove accurately. By this franchise, the Company agrees that the liquidated damages specified herein are reasonable in amount and are not disproportionate to actual anticipated damages;

(2) Forfeiture of all rights under this franchise; or

(3) Any other remedies available to the Town by law.

(b) The Town may take action to correct the failure and the Company shall promptly reimburse the Town for the cost of such action.

(c) In the event of judicial action taken by either party to enforce any of the terms or conditions of this franchise, each party shall be responsible for its own attorney fees and costs associated with such action.

(5) Sec. 6-1-50. Suspension or revocation; fine. (Business Licenses and Regulations — Alcoholic Beverages)

(a) Whenever a decision of the Board of Trustees, acting as the Local Licensing Authority (hereinafter "Authority"), suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Authority for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

(1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(3) That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(b) The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the Town Clerk and shall be deposited in the general fund of the Town.

(d) Upon payment of the fine pursuant to this Section, the Authority shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this Section, the authority of the Authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Authority, does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority.

(6) Sec. 10-7-80. Possession of cannabis. (General Offenses — Alcoholic Beverages and Drugs)

(a) For the purposes of this Section, the term *cannabis* shall include all parts of the plant *Cannabis sativa L.*, whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber prepared from its stalks, oil or cake, or the sterilized seed of such plant, which is incapable of germination. The term *cannabis concentrate* means hashish, tetrahydrocannabinols or any extract, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

Repealed by Colorado State Constitution Amendment 64

(b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

(c) It is unlawful openly and publicly to display or consume one (1) ounce or less of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1-4-20 of this Code.

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act.

(7) Sec. 13-1-170. Commencement of service charges; billing and payment. (Municipal Utilities — Sewer Regulations)

(a) Service charges levied hereinabove shall commence upon installation of a user's tap or the expiration of sixty (60) days from the date of issuance of the sewer tap permit, whichever occurs first. In the event a tap has not been installed within six (6) months from the date of issuance of the permit, the Town may at its option cancel the permit, whereupon it shall refund the tap fee to the purchaser.

(b) The sewer charges levied pursuant to this Article shall be payable monthly and shall be added to and made a part of the monthly water bill of the various properties in the Town. Properties outside the Town shall pay monthly and in advance, or as provided by agreement. If the same are not paid within ten (10) days after the billing date, a penalty of ten percent (10%) of such charge shall be added to such bill.

(8) Sec. 13-1-180. Collection of unpaid and overdue charges. (Municipal Utilities — Sewer Regulations)

Each sewer charge levied pursuant to this Article shall be a lien therewith and, if the same is not paid within ten (10) days after it becomes due and payable, the Town Clerk shall certify such unpaid rates or charges to the County Treasurer to be placed by him or her upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a penalty of five dollars (\$5.00) thereon to defray the cost of collection; and the same shall become a lien against the real property served and shall be collected and paid over by the County Treasurer to the Town in the same manner as taxes, pursuant to Section 31-35-617, C.R.S., and all laws for the sale of property taxes and redemption of the same shall apply thereto. Delinquent charges for out-of-Town users shall be collected in the manner set forth in Section 31-35-708, C.R.S.

(9) Sec. 13-2-30. Water rents, billing and collection. (Municipal Utilities — Water Regulations)

All water rents, whether based on a flat rate or meter rate, shall be due and payable quarterly or monthly, as may be determined from time to time by the Board of Trustees, upon receipt of a statement for said period. All water rents shall be payable at the office of the Town Clerk and, if not paid by the due date of the next monthly billing, shall become delinquent; and the water may be shut off by the Town without further notice to the water user, other than the provisions of this Section. Whenever the water has been shut off for nonpayment of water rental, the water service shall not be reinstated until all back water rents and penalties have been paid, together with a fee of fifty dollars (\$50.00) for the time and expense of shutting off and turning on the water.

(10) Sec. 13-2-40. Delinquent water rentals; lien against property. (Municipal Utilities — Water Regulations)

In addition to all other remedies available to the Town, all unpaid water rentals and charges from and after the same become due shall be and become, and the same are hereby made, a lien in favor of the Town upon the premises and property upon which the water has been used and for which the water rents and charges are delinquent. Said lien shall be superior to every other lien upon the subject property, excepting only the lien of general real estate taxes. Said lien may be foreclosed by an action brought in any court of competent jurisdiction on behalf of the Town and against every person having any right, title or interest in and to the subject premises in the same manner as the foreclosure of mortgages and other liens according to the laws of the State. The Town shall be entitled in such enforcement actions to recover, in addition to the delinquent water rentals, a penalty of five dollars (\$5.00), any water service reinstatement fee and any and all costs of such enforcement action, including reasonable attorney fees.

Section 5. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Town to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.